

#### **405 KAR 5:040. Access roads and haul roads.**

RELATES TO: KRS 350.010(2), 350.240, 350.300

STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.029, 350.240, 350.300

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part, requires the cabinet to promulgate administrative regulations pertaining to noncoal mineral operations to minimize their adverse effects on the citizens and the environment of the Commonwealth. This administrative regulation sets forth general provisions and specifications for constructing haul roads and access roads for noncoal mineral operations.

Section 1. General. (1) Each mineral permittee shall design, construct, utilize, and maintain roads and restore the area to meet the requirements of this administrative regulation and to control or minimize erosion and siltation, air and water pollution, and to prevent damage to public or private property.

(2) To the extent possible using the best technology currently available, roads shall not cause damage to fish, wildlife, and related environmental values and shall not cause additional contributions of suspended solids to streamflow or to run-off outside the permit area. Any additional contributions shall not be in excess of limitations of state or federal law.

(3) The design of roads shall be certified by a qualified registered professional engineer as being in accordance with specifications of this administrative regulation, except to the extent that alternative specifications are used. Alternative specifications may be used only after approval by the cabinet upon a demonstration by a qualified registered professional engineer that they will result in performance, with regard to safety, stability and environmental protection, equal to or better than, that resulting from roads complying with the specifications of this administrative regulation.

(4) Use of a preexisting private road, or any portion thereof by the mineral operator requires:

(a) That the road be kept open and in a condition that local traffic can use it without damage to their means of transportation.

(b) That if any disturbance by the mineral operator makes the road impassable, a detour of comparable usability shall be provided.

(5) No part of any road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the cabinet for stream crossings.

(6) Stream fords are prohibited unless they are specifically approved by the cabinet as temporary routes during periods of construction. The fords shall not adversely affect stream sedimentation or fish, wildlife, and related environmental values. All other stream crossings shall be made using bridges, culverts, or other structures designed, constructed, and maintained to meet the requirements of Section 4 of this administrative regulation.

(7) Access roads, haul roads, and any yard areas or parking areas shall be maintained with proper surface materials to prevent erosion.

(8) The deposition of mud and other debris on public roads shall be minimized to the extent possible in order to prevent public nuisance.

Section 2. Specifications for Access and Haul Roads. (1) The grade of an access road shall be such that:

(a) There shall be no more than 400 feet of grade exceeding ten (10) percent.

(b) The maximum grade shall not exceed fifteen (15) percent for 300 feet.

(c) There shall not be more than 300 feet of maximum grade for each consecutive 1,000 feet of road constructed.

(d) All grades referred to in this subsection shall be subject to a tolerance of two (2) percent grade.

(2) Appropriate drainage control shall be provided for access and haul roads conforming to the following stipulations:

(a) A ditch shall be provided on both sides of a throughcut, and on the inside shoulder of a cut-fill section, with ditch relief cross drains being spaced according to grade.

(b) Water shall be intercepted before reaching a switch back or large fill and be led off.

(c) Water on a fill or switch back shall be released below the fill, not over it.

(d) Ditch relief structures shall be installed, where possible, according to Appendix A of this administrative regulation which represents spacing in terms of percent of ditch line grade on the basis of 100 square inch openings per culvert.

(3) Cut slopes shall not be steeper than specifically authorized by the cabinet, and shall not be steeper than 1v:1.5H in unconsolidated materials or 1v:0.25h in rock, except that steeper slopes may be specifically authorized by the cabinet if geotechnical analysis demonstrates that a minimum safety factor of one and five-tenths (1.5) can be maintained.

(4) Embankment slopes shall not be steeper than 1v:2H, except where the embankment material is a minimum of eighty-five (85) percent rock. Slopes with eighty-five (85) percent rock shall not be steeper than 1v:1.35H.

(5) If a berm is produced in skimming the road, it shall not be left on the ditch side.

(6) Access roads shall not be surfaced with any acid-forming or toxic-forming material, the surface being that part of the road exposed to the elements of wind, rain, and sun.

(7) No bridges, culverts, stream crossings, or similar structures, shall be removed until the reclamation is completed.

(8) When an access road is to be abandoned, surface drainage and vegetative cover shall be provided to minimize erosion.

(a) Regardless of the future use of the road, adequate surface drainage shall be provided.

(b) A road will be considered to be abandoned when the mineral operator has ceased to use the road and has not turned the road over to another party for his use.

(c) When adequate surface drainage and vegetative cover has been provided, the mineral operator shall be relieved of all further obligations in maintaining the road.

(9) All measurements referred to in this section, including grade limitations, shall be subject to a tolerance of plus or minus five (5) percent of measurement.

(10) Typical section showing width of road cut, fill slopes, surface material of road, a center line profile with grades, pipe location and size, shall be included in the permit application.

Appendix A of 405 KAR 5:040	
Ditch Line Gradient (Percent)	Spacing Of Culverts (Feet) (shall not exceed)
2	600
3	500
4	400
5	320
6	275

(21 Ky.R. 753; 1130; 2108; eff. 2-22-1995; Crt eff. 7-3-2018.)